

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1161

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-24-2, AS AMENDED BY P.L.139-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In addition to the delinquency list required under section 1 of this chapter, each county auditor shall prepare a notice. The notice shall contain the following:

- (1) A list of tracts or real property eligible for sale under this chapter.
- (2) A statement that the tracts or real property included in the list will be sold at public auction to the highest bidder, subject to the right of redemption.
- (3) A statement that the tracts or real property will not be sold for an amount which is less than the sum of:
 - (A) the delinquent taxes and special assessments on each tract or item of real property;
 - (B) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, whether or not they are delinquent;
 - (C) all penalties due on the delinquencies;
 - (D) an amount prescribed by the county auditor that equals the sum of:
 - (i) twenty-five dollars (\$25) for postage and publication costs; and



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- (ii) any other actual costs incurred by the county that are directly attributable to the tax sale; and
 - (E) any unpaid costs due under subsection (b) from a prior tax sale.
- (4) A statement that a person redeeming each tract or item of real property after the sale must pay:
 - (A) one hundred ten percent (110%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed not more than six (6) months after the date of sale;
 - (B) one hundred fifteen percent (115%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed more than six (6) months after the date of sale;
 - (C) the amount by which the purchase price exceeds the minimum bid on the tract or item of real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid; and
 - (D) all taxes and special assessments on the tract or item of real property paid by the purchaser after the tax sale plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property.
- (5) A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, upon written request from the county auditor, shall provide the information to be in the notice required by this subsection. A misstatement in the key number or street address does not invalidate an otherwise valid sale.
- (6) A statement that the county does not warrant the accuracy of the street address or common description of the property.
- (7) A statement indicating:
 - (A) the name of the owner of each tract or item of real property with a single owner; or
 - (B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.
- (8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:

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(A) A statement:

- (i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and
- (ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.

(B) A statement that any defense to the application for judgment must be filed with the court before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Except as provided in section 5.5 of this chapter, the sale must take place on or after August 1 and before November 1 of each year.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that tracts or items will be sold together.

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The

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county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 2. IC 6-1.1-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) When a tract or an item of real property is offered for sale under this chapter for two (2) consecutive tax sales and an amount is not received equal to or in excess of the minimum sale price prescribed in section 5(e) of this chapter, the county acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale the second time.

(b) When a county acquires a lien under this section, the county auditor shall issue a tax sale certificate to the county in the manner provided in section 9 of this chapter. The county auditor shall date the certificate the day that the county acquires the lien. When a county acquires a certificate under this section, the county has the same rights as a purchaser. However, the county shall hold the ~~property~~ **certificate** for the taxing units described in subsection (c).

(c) When a lien is acquired by a county under this section, no money shall be paid by the county. However, each of the taxing units having an interest in the taxes on the tract shall be charged with the full amount of all delinquent taxes due them.

SECTION 3. IC 6-1.1-24-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.1. (a) The county commissioners may:**

(1) by resolution, identify properties:

(A) that are described in section 6.7(a) of this chapter; and



- (B) concerning which the county commissioners desire to offer to the public the certificates of sale acquired by the county under section 6 of this chapter;
- (2) publish notice in accordance with IC 5-3-1 of the date, time, and place for a public sale of the certificates of sale that is not earlier than ninety (90) days after the last date the notice is published; and
- (3) sell each certificate of sale covered by the resolution for a price that:
- (A) is less than the minimum sale price prescribed by section 5(e) of this chapter; and
 - (B) includes any costs to the county directly attributable to the sale of the certificate of sale.
- (b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:
- (1) include a description of the property by parcel number and common address;
 - (2) specify that the county commissioners will accept bids for the certificates of sale for the price referred to in subsection (a)(3);
 - (3) specify the minimum bid for each parcel;
 - (4) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:
 - (A) the amount of the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale;
 - (B) ten percent (10%) of the amount for which the certificate is sold;
 - (C) the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;
 - (D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property; and
 - (E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and
 - (5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5(e) of this

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chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 4. IC 6-1.1-24-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.3. (a) The sale of certificates of sale under this chapter must be held at the time and place stated in the notice of sale.

(b) A certificate of sale may not be sold under this chapter if the following are paid before the time of sale:

- (1) All the delinquent taxes, penalties, and special assessments on the tract or an item of real property.
- (2) The amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale.

(c) The county commissioners shall sell the certificate of sale, subject to the right of redemption, to the highest bidder at public auction.

(d) The county auditor shall serve as the clerk of the sale.

SECTION 5. IC 6-1.1-24-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.4. (a) When a certificate of sale is sold under this chapter, the purchaser at the sale shall immediately pay the amount of the bid to the county treasurer. The county treasurer shall apply the payment in the following manner:

- (1) First, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter.
- (2) Second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b).
- (3) Third, to a separate "tax sale surplus fund".

(b) The:

- (1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or
- (2) purchaser of the certificate or the purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money that is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.



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(c) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is claimed more than three (3) years after the date of its receipt.

(d) Upon the assignment of the certificate of sale to the purchaser, the county auditor shall indicate on the certificate the amount for which the certificate of sale was sold.

SECTION 6. IC 6-1.1-25-1, AS AMENDED BY P.L.139-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Any person may redeem the tract or real property:

(1) sold; or

(2) for which the certificate of sale is sold under IC 6-1.1-24; under IC 6-1.1-24 at any time before the expiration of the period of redemption specified in section 4 of this chapter by paying to the county treasurer the amount required for redemption under section 2 of this chapter.

SECTION 7. IC 6-1.1-25-2, AS AMENDED BY P.L.139-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The total amount of money required for the redemption of real property equals:

(1) the sum of the amounts prescribed in subsections (b) through (e); or

(2) the amount prescribed in subsection (f);

reduced by any amounts held in the name of the taxpayer or the purchaser in the tax sale surplus fund.

(b) Except as provided in subsection (f), the total amount required for redemption includes:

(1) one hundred ten percent (110%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if the tract or item of real property is redeemed not more than six (6) months after the date of sale; or

(2) one hundred fifteen percent (115%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if the tract or item of real property is redeemed more than six (6) months but not more than one (1) year after the date of sale.

(c) Except as provided in subsection (f), in addition to the amount required under subsection (b), the total amount required for redemption includes the amount by which the purchase price exceeds the minimum bid on the real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid on the

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property.

(d) **Except as provided in subsection (f)**, in addition to the amount required under subsections (b) and (c), the total amount required for redemption includes all taxes and special assessments upon the property paid by the purchaser after the sale plus ten percent (10%) interest per annum on those taxes and special assessments.

(e) **Except as provided in subsection (f)**, in addition to the amounts required under subsections (b), (c), and (d), the total amount required for redemption includes the following costs, if certified before redemption by the payor to the county auditor on a form prescribed by the state board of accounts, that were incurred and paid by the purchaser, ~~or~~ the purchaser's assignee, or the county, before redemption:

- (1) The attorney's fees and costs of giving notice under section 4.5 of this chapter.
- (2) The costs of a title search or of examining and updating the abstract of title for the tract or item of real property.

(f) With respect to a tract or item of real property redeemed under section 4(c) of this chapter, instead of the amounts stated in subsections (b) through (e), the total amount required for redemption is the amount determined under IC 6-1.1-24-6.1(b)(4).

SECTION 8. IC 6-1.1-25-2.5, AS AMENDED BY P.L.139-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A county auditor may petition a court issuing judgments and orders for sale in the county under IC 6-1.1-24 to establish a schedule of reasonable and customary attorney's fees and costs that apply to a:

- (1) purchaser; ~~or~~
- (2) purchaser's assignee; **or**
- (3) **purchaser of the certificate of sale under IC 6-1.1-24;**

who submits a claim for reimbursement upon redemption.

(b) When a court provides a schedule as described in subsection (a), the county auditor may not reimburse attorney's fees and costs in an amount higher than the attorney's fees and costs provided in the schedule, except as provided in subsection (c).

(c) A:

- (1) purchaser; ~~or~~
- (2) purchaser's assignee; **or**
- (3) **purchaser of the certificate of sale under IC 6-1.1-24;**

may petition the court for a higher rate of reimbursement than the rate found on a schedule provided under subsection (a). The court shall grant the petition if the court finds that the claim is based on reasonable

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and customary attorney's fees and costs.

SECTION 9. IC 6-1.1-25-3, AS AMENDED BY P.L.139-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. When real property is redeemed and the certificate of sale is surrendered to the county auditor, the auditor shall issue a warrant to the:

- (1) purchaser; ~~or~~
- (2) purchaser's assignee; **or**
- (3) purchaser of the certificate of sale under IC 6-1.1-24;**

in an amount equal to the amount received by the county treasurer for redemption. The county auditor shall indorse the certificate and preserve it as a public record. If a certificate of sale is lost and the auditor is satisfied that the certificate did exist, the county auditor may make payment ~~to the purchaser or purchaser's assignee~~ in the manner provided in this section.

SECTION 10. IC 6-1.1-25-4, AS AMENDED BY P.L.1-2002, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The period for redemption of real property sold under IC 6-1.1-24 is:

- (1) one (1) year after the date of sale;
- ~~(2) one hundred twenty (120) days after the county acquires a lien on the property under IC 6-1.1-24-6;~~
- ~~(3)~~ **(2)** one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17;
- ~~(4)~~ **(3)** one hundred twenty (120) days after the date of sale of real property on the list prepared under IC 6-1.1-24-1.5; or
- ~~(5)~~ **(4)** one hundred twenty (120) days after the date of sale under IC 6-1.1-24-5.5(b).

(b) The period for redemption of real property:

- (1) on which the county acquires a lien under IC 6-1.1-24-6; and**
- (2) for which the certificate of sale is not sold under IC 6-1.1-24-6.1;**

is one hundred twenty (120) days after the date the county acquires the lien under IC 6-1.1-24-6.

(c) The period for redemption of real property:

- (1) on which the county acquires a lien under IC 6-1.1-24-6; and**
 - (2) for which the certificate of sale is sold under IC 6-1.1-24;**
- is one hundred twenty (120) days after the date of sale of the certificate of sale under IC 6-1.1-24.**

(d) When a deed for real property is executed under this chapter, the

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county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor. If real property that appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale and an amount that is at least equal to the minimum sale price required under IC 6-1.1-24-5(e) is not received, the county auditor shall issue a deed to the real property in the manner provided in IC 6-1.1-24-6.5.

~~(c)~~ (e) When a deed is issued to a county under this chapter, the taxes and special assessments for which the real property was offered for sale, and all subsequent taxes, special assessments, interest, penalties, and cost of sale shall be removed from the tax duplicate in the same manner that taxes are removed by certificate of error.

~~(d)~~ (f) A tax deed executed under this chapter vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law and the lien of the state or a political subdivision for taxes and special assessments which accrue subsequent to the sale and which are not removed under subsection ~~(c)~~ (e). However, the estate is subject to:

- (1) all easements, covenants, declarations, and other deed restrictions shown by public records;
- (2) laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection; and
- (3) liens and encumbrances created or suffered by the grantee.

~~(e)~~ (g) A tax deed executed under this chapter is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

~~(f)~~ (h) A county auditor is not required to execute a deed to the county under this chapter if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property. The county may enter the property to conduct environmental investigations.

~~(g)~~ (i) If the county executive makes the determination under subsection ~~(f)~~ (h) as to any interest in an oil or gas lease or separate mineral rights, the county treasurer shall certify all delinquent taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk, following the procedures in IC 6-1.1-23-9. After the date of the county

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treasurer's certification, the certified amount is subject to collection as delinquent personal property taxes under IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an interest shall be zero (0) until production commences.

(j) When a deed is issued to a purchaser of a certificate of sale sold under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that taxes are removed by certificate of error, remove from the tax duplicate the taxes, special assessments, interest, penalties, and costs remaining due as the difference between the amount of the last minimum bid under IC 6-1.1-24-5(e) and the amount paid for the certificate of sale.

SECTION 11. IC 6-1.1-25-4.5, AS AMENDED BY P.L.139-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) **Except as provided in subsection (d), a purchaser or the purchaser's assignee or a county** is entitled to a tax deed to the property that was sold only if:

- (1) the redemption period specified in section ~~4~~ **4(a)(1)** of this chapter has expired;
- (2) the property has not been redeemed within the period of redemption specified in section ~~4~~ **4(a)** of this chapter; and
- (3) not later than nine (9) months after the date of the sale:
 - (A) the purchaser or the purchaser's assignee; or
 - (B) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor;

gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the tract or real property.

(b) A county is entitled to a tax deed to property on which the county acquires a lien under IC 6-1.1-24-6 and for which the certificate of sale is not sold under IC 6-1.1-24-6.1 only if:

- (1) the redemption period specified in section 4(b) of this chapter has expired;**
- (2) the property has not been redeemed within the period of redemption specified in section 4(b) of this chapter; and**
- (3) not later than ninety (90) days after the date the county acquires the lien under IC 6-1.1-24-6, the county auditor gives notice of the sale to:**
 - (A) the owner of record at the time the lien was acquired;**
 - and**
 - (B) any person with a substantial property interest of public record in the tract or real property.**



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(c) A purchaser of a certificate of sale under IC 6-1.1-24-6.1 is entitled to a tax deed to the property for which the certificate was sold only if:

- (1) the redemption period specified in section 4(c) of this chapter has expired;
- (2) the property has not been redeemed within the period of redemption specified in section 4(c) of this chapter; and
- (3) not later than ninety (90) days after the date of sale of the certificate of sale under IC 6-1.1-24, the purchaser gives notice of the sale to:
 - (A) the owner of record at the time of the sale; and
 - (B) any person with a substantial property interest of public record in the tract or real property.

(d) A purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold under IC 6-1.1-24-5.5(b) only if:

- (1) the redemption period specified in section 4(a)(4) of this chapter has expired;
- (2) the property has not been redeemed within the period of redemption specified in section 4(a)(4) of this chapter; and
- (3) not later than ninety (90) days after the date of the sale, the purchaser or the purchaser's assignee gives notice of the sale to:
 - (A) the owner of record at the time of the sale; and
 - (B) any person with a substantial property interest of public record in the tract or real property.

(e) The purchaser or assignee or, in a county where the county auditor and county treasurer have an agreement under section 4-7 of this chapter, the county auditor person required to give the notice under subsection (a), (b), or (c) shall give the notice required by subsection (a), by sending a copy of the notice by certified mail to:

- (1) the owner of record at the time of the:
 - (A) sale of the property;
 - (B) acquisition of the lien on the property under IC 6-1.1-24-6; or
 - (C) sale of the certificate of sale on the property under IC 6-1.1-24;

at the last address of the owner for the property, ~~sold~~, as indicated in the records of the county auditor; and

- (2) any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

However, if the address of the person with a substantial property

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interest of public record is not indicated in the public record that created the interest and cannot be located by ordinary means by the ~~purchaser or assignee or, in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor~~ **person required to give the notice under subsection (a), (b), or (c), the person** may give notice by publication in accordance with IC 5-3-1-4 once each week for three (3) consecutive weeks.

~~(e)~~ **(f)** The notice that this section requires shall contain at least the following:

- (1) A statement that a petition for a tax deed will be filed on or after a specified date.
- (2) The date on or after which the petitioner intends to petition for a tax deed to be issued.
- (3) A description of the tract or real property shown on the certificate of sale.
- (4) The date the tract or real property was sold at a tax sale.
- (5) The name of the:
 - (A) purchaser or purchaser's assignee;
 - (B) **county that acquired the lien on the property under IC 6-1.1-24-6; or**
 - (C) **person that purchased the certificate of sale on the property under IC 6-1.1-24.**
- (6) A statement that any person may redeem the tract or real property.
- (7) The components of the amount required to redeem the tract or real property.
- (8) A statement that ~~the purchaser or the purchaser's successors or assignees are an entity identified in subdivision (5)~~ **is entitled to reimbursement for additional taxes or special assessments on the tract or real property that were paid by the purchaser entity subsequent to the tax sale, lien acquisition, or purchase of the certificate of sale, and before redemption, plus interest.**
- (9) A statement that the tract or real property has not been redeemed.
- (10) A statement that ~~the purchaser or the purchaser's assignee an entity identified in subdivision (5)~~ **is entitled to receive a deed for the tract or real property if it is not redeemed before the expiration of the period of redemption specified in section 4 of this chapter.**
- (11) A statement that ~~the purchaser or the purchaser's assignee an entity identified in subdivision (5)~~ **is entitled to reimbursement**

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for costs described in section 2(e) of this chapter.

(12) The date of expiration of the period of redemption specified in section 4 of this chapter.

(13) A statement that if the property is not redeemed, the owner of record at the time the tax deed is issued may have a right to the tax sale surplus, if any.

(14) The street address, if any, or a common description of the tract or real property.

(15) The key number or parcel number of the tract or real property.

~~(d)~~ (g) The notice under this section must include not more than one (1) tract or item of real property listed and sold in one (1) description. However, when more than one (1) tract or item of real property is owned by one (1) person, all of the tracts or real property that are owned by that person may be included in one (1) notice.

~~(e)~~ (h) A single notice under this section may be used to notify joint owners of record at the last address of the joint owners for the property sold, as indicated in the records of the county auditor.

~~(f)~~ (i) The notice required by this section is considered sufficient if the notice is mailed to the address required under subsection ~~(b)~~: (e).

~~(g)~~ (j) The notice under this section and the notice under section 4.6 of this chapter are not required for persons in possession not shown in the public records.

(k) If the purchaser fails to:

(1) comply with subsection (c)(3); or

(2) petition for the issuance of a tax deed within the time permitted under section 4.6(a) of this chapter;

the certificate of sale reverts to the county and may be retained by the county or sold under IC 6-1.1-24-6.1.

SECTION 12. IC 6-1.1-25-4.6, AS AMENDED BY P.L.139-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6) months after the expiration of the period of redemption:

(1) the purchaser, the purchaser's assignee, ~~or~~ the county, **or the purchaser of the certificate of sale under IC 6-1.1-24** may; or

(2) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;

file a verified petition in the same court and under the same cause number in which the judgment of sale was entered asking the court to

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direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and in the same manner as provided in section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section ~~4.5(b)~~ **4.5(d)** of this chapter. Any person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written ~~petition~~ **objection** is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

- (1) The time of redemption has expired.
- (2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.
- (3) **Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid.**
- (4) The notices required by this section and section 4.5 of this chapter have been given.
- (5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the ~~purchaser or purchaser's assignee~~

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petitioner under subsection (a) to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

~~(1) either:~~

~~(A) the purchaser or the purchaser's assignee; or~~

~~(B) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor;~~

(1) the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, ~~or the purchaser's successors or assignees,~~ **or the purchaser of the certificate of sale under IC 6-1.1-24.** The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

(1) the purchaser or the purchaser of the certificate of sale under IC 6-1.1-24 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and

(2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

(1) the regularity of the sale of the real property described in the



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deed;

(2) the regularity of all proper proceedings; and

(3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 13. IC 6-1.1-25-7, AS AMENDED BY P.L.139-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If the:

(1) purchaser; ~~or the~~

(2) purchaser's successors or assigns; **or**

(3) purchaser of the certificate of sale under IC 6-1.1-24;

fails to file the petition within the period provided in section 4.6 of this chapter, ~~the purchaser's~~ **that person's** lien against the real property terminates at the end of that period. However, this section does not apply if the county or city is the holder of the certificate of sale.

(b) If the notice under section 4.5 of this chapter is not given within the period specified in section 4.5(a)(3) **or 4.5(c)(3)** of this chapter, the ~~purchaser's~~ **lien of the:**

(1) purchaser of the property; or

(2) purchaser of the certificate of sale under IC 6-1.1-24;

against the real property terminates at the end of that period.

SECTION 14. IC 6-1.1-25-8, AS AMENDED BY P.L.1-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. Each county auditor shall maintain a tax sale record on the form prescribed by the state board of accounts. The record shall contain:

(1) a description of each parcel of real property:

(A) that is sold under IC 6-1.1-24;

(B) on which a county acquires a lien under IC 6-1.1-24-6;
or

(C) for which a certificate of sale is purchased under IC 6-1.1-24;

(2) the name of the owner of the real property at the time of the:

(A) sale;

(B) lien acquisition; or

(C) certificate of sale purchase;

(3) the date of the

(A) sale;

(B) lien acquisition; or

(C) certificate of sale purchase;



- (4) the name and mailing address of the:
 - (A) purchaser **of the property** and the purchaser's assignee; if ~~any~~ **or**
 - (B) **purchaser of the certificate of sale;**
- (5) the amount of the minimum bid;
- (6) the amount for which the:
 - (A) real property; **or**
 - (B) **certificate of sale;**
 is sold;
- (7) the amount of any taxes paid by the:
 - (A) purchaser **of the real property** or the purchaser's assignee; **or**
 - (B) **purchaser of the certificate of sale;**
 and the date of the payment;
- (8) the amount of any costs certified to the county auditor under section 2(e) of this chapter and the date of the certification;
- (9) the name of the person, if any, who redeems the property;
- (10) the date of redemption;
- (11) the amount for which the property is redeemed;
- (12) the date a deed, if any, to the real property is executed; and
- (13) the name of the grantee in the deed.

SECTION 15. IC 6-1.1-25-10, AS AMENDED BY P.L.139-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) If, before the court issues an order directing the county auditor to issue a tax deed to a tract or item of real property sold under IC 6-1.1-24, it is found by the county auditor and the county treasurer that the sale was invalid, the county auditor shall refund:

- (1) the purchase money and all taxes and special assessments on the property paid by the purchaser, ~~or~~ the purchaser's assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24** after the tax sale plus six percent (6%) interest per annum; and
- (2) subject to any limitation under section 2.5 of this chapter, any costs paid by the purchaser, ~~or~~ the purchaser's assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24** under section 2 of this chapter;

from the county treasury to the purchaser, ~~or~~ the purchaser's successors or assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24**. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

- (b) A political subdivision shall reimburse the county for interest



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paid by the county under subsection (a) if:

- (1) the invalidity of the sale under IC 6-1.1-24 resulted from the failure of the political subdivision to give adequate notice of a lien to property owners; and
- (2) the existence of the lien resulted in the sale of the property under IC 6-1.1-24.

SECTION 16. IC 6-1.1-25-11, AS AMENDED BY P.L.139-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Subsequent to the issuance of the order directing the county auditor to issue a tax deed to real property sold under IC 6-1.1-24, a county auditor shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, ~~or~~ the purchaser's successors or assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24** if it is found by the court that entered the order for the tax deed that:

- (1) the real property described in the deed was not subject to the taxes for which it was sold;
- (2) the delinquent taxes or special assessments for which the real property was sold were properly paid before the sale; or
- (3) the legal description of the real property in the tax deed is void for uncertainty.

(b) The grantee of an invalid tax deed, including the county, to whom a refund is made under this section shall execute, acknowledge, and deliver to the owner a deed conveying whatever interest the purchaser may have acquired by the tax sale deed. If a county is required to execute a deed under this section, the deed shall be signed by the county board of commissioners and acknowledged by the clerk of the circuit court.

(c) A refund may not be made under this section while an action initiated under either section 14 or 16 of this chapter is pending.

SECTION 17. IC 36-1-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

- (1) touches, borders on, or is contiguous to the property that is the subject of sale; and
- (2) does not constitute a:
 - (A) public easement; or
 - (B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

- (1) appraisal fees;
- (2) title insurance;



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(3) recording fees; and

(4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than ~~five~~ **fifteen** thousand dollars (~~\$5,000~~), **(\$15,000)**, based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent may proceed under this section.

(d) The disposing agent may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than ~~two~~ **six** thousand dollars (~~\$2,000~~), **(\$6,000)**, based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.



(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) abutting landowner makes an eligible offer to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

SECTION 18. IC 36-10-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the board decides to:

- (1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;
- (2) acquire real property without proceeding at the time with a work of improvement; or
- (3) proceed with a work of improvement where the real property has been already secured;

it shall adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the

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board shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. The resolution must be open to inspection by all persons interested in or affected by the appropriation of land or the construction of the work. The board shall have notice of the resolution and its contents published in accordance with IC 5-3-1. The notice must state a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The board may, at any time before the adoption of the resolution:

- (1) obtain from the owner or owners of the land an option for its purchase; or
- (2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint ~~three (3)~~ **two (2)** qualified appraisers to appraise ~~its value~~ **the fair market value of the land. Each appraiser must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1.** The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that

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they have no interest in the matter and that they will honestly and impartially make the valuation. ~~They shall then view the land; determine the true market value of it at that time; and report the appraisal in writing.~~ **The appraisers shall return the appraisers' separate appraisals to the board not more than thirty (30) days after the date of their appointment.** The ~~report appraisals~~ shall be filed with and ~~becomes~~ **become** a part of the record of the proceeding.

(h) The board may not take an option on the land or enter into a contract to purchase it at a ~~higher price than the value named in the report.~~ **greater than the average of the two (2) appraisals received under subsection (g).** The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the board due to the acquisition of land or to construction work shall be paid out of the funds under the control of the board and ~~are is~~ not an indebtedness or obligation of the unit.

(i) At the time fixed for the hearing, or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the secretary of the board.

(j) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the board shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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HEA 1161 — Concur+

